REMARKS

Claims 1, 3 and 9 have been amended by this Response. Claims 2, 5, 10, 13, 15 and 16 have been canceled by this Response. Claims 1, 3, 4, 6-9, 11, 12, 14, 17 and 18 remain in the application. Applicant respectfully requests further examination in view of the following.

Rejection of Claims 1, 2, 4, 5 and 9-16 Under 35 U.S.C. § 103(a) – Bearden et al. and Baum

Claims 1, 2, 4, 5 and 9-16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Bearden et al.* (U.S. Patent Application Publication No. 2004/0062204 of Mark J. Bearden, et al.) in view of *Baum* (U.S. Patent Application Publication No. 2003/0200311 of Robert T. Baum). Applicant has amended claims 1 and 9, and canceled claims 2, 5, 10, 13, 15 and 16, but otherwise respectfully traverses this rejection for at least the following reasons.

As the Examiner observes, *Bearden et al.* discloses a network system in which "endpoint devices," in addition to other functions, synthesize VoIP calls for testing purposes, measure Quality of Service (QoS) parameters associated with the call, and report the results back to a centralized Testing Server. As the Examiner acknowledges, "Bearden et al. [is] silent on monitoring a respective telephone call." However, the Examiner apparently contends that *Baum* (which does not relate to monitoring QoS parameters) teaches the call-monitoring-related features of the rejected claims and provides a reason or motivation for including such features in a system along the lines of that described in *Bearden et al.* The Examiner observes that the Soft Switch (536) in the *Baum* system "sends a request to [the] edge routers and [the Location and Customer Information Server (534)] to gather data stream information relative to the telephone number, wherein the request includes the IP address corresponding to the phone number of the device to be monitored." The edge routers in the *Baum* system then send any such gathered data to a Communications Monitoring Station (560). As an alleged motivation to include such features in a system such as that disclosed in *Bearden et al*, the Examiner states that it would make such a system more *accurate.*

Applicant respectfully disagrees with the Examiner's implication that *Baum* discloses all of the call-monitoring-related features of claims 1 and 9-16, as amended, that are not disclosed in *Bearden et al.* These claims recite, among other things, that the Network

Troubleshooting Center (NTC) sends a telephone number to the Network Analyzers (NAs) that monitor the communication lines through which VoIP data streams are transmitted, so that the NAs can listen for VoIP data streams associated with a telephone call having the telephone number as a source or destination and collect quality of service data for those data streams. Applicant respectfully submits that _Baum does not teach sending a telephone number to the edge routers_ that detect packets relating to a telephone call to be monitored. (The _Baum_ system is used for "wiretapping" a VoIP telephony system.) Rather, as shown in Fig. 14 of _Baum_ and described in the associated text, the Soft Switch (536) maintains a list of the telephone numbers to be monitored and a database that relates telephone numbers to IP addresses. The Soft Switch sends IP addresses to the Location and Customer Information Server (534), which can then determine which edge routers would be involved in the call. The edge routers that are involved in the call then monitor for VoIP data packets that relate to the calls to be monitored. _The edge routers are never in possession of telephone numbers that relate to such calls._ It should also be noted that the Soft Switch, not the edge routers, contains the call monitoring routine (see Fig. 14), i.e., the intelligence that drives the process for monitoring a call. The edge routers do not include such intelligence. Rather, they mainly perform the packet routing function of a conventional network edge router and also detect data packets as may be requested. Thus, they are not like the Network Analyzers recited in Applicant's claims, and not like the "endpoint devices" disclosed in _Bearden et al._

Applicant also respectfully disagrees that _Baum_ discloses anything that would make a system such as that disclosed in _Bearden et al._ more "accurate" by adding features to monitor a VoIP telephone call based upon a telephone number. In the _Bearden et al._ system, the only calls for which QoS information is generated are those that the endpoint devices synthesize themselves for that purpose. As the Examiner recognizes, QoS information is not obtained for ordinary calls through the network, i.e., calls placed by actual users dialing telephone numbers. If the Examiner's use of the term "accuracy" refers to accuracy in determining what call to monitor or in identifying packets relating to such a call, the _Bearden et al._ system cannot be made any more "accurate" than it already is, as the system is in full control of the test calls that its own endpoint devices synthesize or initiate. The _Bearden et al._ system has all the information it needs about such calls, since the system itself originated them for testing purposes. There would be no problem whatsoever with "accuracy" in the _Bearden et al._ system, such that some teaching in _Baum_ could allegedly improve such accuracy. In

contrast, Applicant's invention is concerned with monitoring QoS calls about which not all information is known, such that the various Network Analyzers are required to search for data packets relating to the telephone number. Therefore, Applicant respectfully submits that improving accuracy in the *Bearden et al.* system would not have motivated one of ordinary skill in the art to have considered incorporating the above-discussed features of the *Baum* system.

As *Bearden et al.* and *Baum* neither collectively disclose all features recited in claims 1, 2 and 9-16 (and, by dependency, claims 4, 11, 12 and 14) nor provide a motivation or reason why a person of ordinary skill in the art would combine their teachings to arrive at the invention as set forth in these claims, Applicant respectfully submits that the invention as recited in these claims would not have been obvious to a person of ordinary skill in the art in view of *Bearden et al.* and *Baum.* Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection of these claims.

Rejection of Claims 3, 6-8, 17 and 18 Under 35 U.S.C. § 103(a) – Bearden et al., Baum and Sarkar et al.

Claims 3, 6-8, 17 and 18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Bearden et al.* in view of *Baum*, and further in view of *Sarkar et al.* (U.S. Patent No. 7,173,911). As discussed above with regard to the claims rejected as unpatentable over *Bearden et al.* in view of *Baum*, Applicant has amended claim 1 (from which claims 3 and 6 depend). Applicant otherwise respectfully traverses this rejection for at least the same reasons discussed above with regard to similar claims, as well as for the following reasons.

The Examiner acknowledges on page 8 of the Office Action that neither *Bearden et al.* nor *Baum* discloses the features recited in claim 3, whereby the first Network Analyzer to identify a data stream relating to the telephone call to be monitored provides identifying information to the Network Troubleshooting Center, which in turn informs the remaining Network Analyzers, or the features recited in claims 7 and 17, whereby the remaining Network Analyzers additionally respond to such an event by stopping trying to identify such data streams. Applicant also notes that claim 11 includes this same feature as claim 3, and therefore claim 11 could not have been obvious in view of only *Bearden et al.* and *Baum* (per the rejection discussed in the section above) in view of the Examiner's own acknowledgement on page 8 of the Office Action (which, incidentally, is inconsistent with the Examiner's statement about claim 11 on page 7 of the Office Action) that *Bearden et al.*

and *Baum* do not teach this feature.

In any event, the Examiner alleges that *Sarkar et al.* teaches these features, and that a motivation to combine the teachings of *Sarkar et al.* with those of *Bearden et al.* and *Baum* would be "that it reduces system resources." Applicant respectfully disagrees that *Sarkar et al.* discloses the features recited in claims 3, 7, 11 and 17 (and, by dependency, claims 8 and 18), or that a desire to reduce system resources would have motivated a person of ordinary skill in the art to have considered the invention as recited in these claims.

Sarkar et al. discloses a network-based system for distributing music in real time. The Examiner cites col. 3, lines 52-67 and col. 4, lines 1-20 as disclosing the features at issue. However, Applicant respectfully submits that the cited section discloses little more than that "[t]he core routers 24 store the identity of poor quality music-on-hold streams and discard the identified streams to reduce the amount of network resources and bandwidth used in caring [sic] audio streams of poor quality." The cited section further states that "[c]ontrol information identifying poor quality streams may be transmitted in-band or out-of-band between routers 24 and 26 and/or other devices." In other words, routers share information identifying poor quality streams so that the routers need not handle them. While Applicant understands the Examiner's reasoning, Applicant respectfully submits that identifying a poor-quality data stream and informing other routers so that the routers can discard those streams is not the same as or similar to what is recited in claims 3, 7, 11 and 17.

With regard to claims 3 and 11, the claims recite sharing information after one of the Network Analyzers has identified a data stream as relating to the telephone number of interest. This has nothing to do with sharing information about poor-quality data. The only commonality between what *Sarkar et al.* discloses and what is recited in claims 3 and 11 is the sharing of information by routers. Network routers passing information to each other is common, but what differentiates one system from another is the type of information and the conditions that trigger a router to pass the information on. Furthermore, claims 3 and 11 recite that the Network Analyzers first pass the identifying information to the Network Troubleshooting Center, which only then communicates with the other Network Analyzers that have been trying to identify a data stream associated with the telephone number; the claims do not recite that the Network Analyzers communicate the identifying information with each other (although they may additionally do so in some embodiments). *Sarkar et al.* does not disclose or suggest this feature.

With regard to claims 7 and 17, the claims recite that the Network Analyzers that had been trying to identify a data stream associated with the telephone number stop doing so after receiving a message from the Network Troubleshooting Center. This is not the same as or similar to a router "discarding" a poor-quality data stream.

As *Bearden et al., Baum* and *Sarkar et al.* neither collectively disclose all features recited in the above-discussed claims nor provide a motivation or reason why a person of ordinary skill in the art would combine their teachings to arrive at the invention as claimed, Applicants respectfully submit that the invention as recited in these claims would not have been obvious to a person of ordinary skill in the art in view of *Bearden et al., Baum* and *Sarkar et al.* Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection of these claims.

CONCLUSION

For at least the foregoing reasons, Applicant respectfully requests that all outstanding rejections be withdrawn and that all pending claims of this application be allowed to issue. If the Examiner has any comments regarding Applicant's response or intends to dispose of this matter in a manner other than a notice of allowance, Applicant requests that the Examiner telephone Applicant's undersigned attorney.

Respectfully submitted,

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